

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Connect America Fund)	WC Docket No. 10-90
)	
Connect America Fund Phase II Auction)	AU Docket No. 17-182

ORDER

Adopted: February 5, 2026**Released: February 5, 2026**

By the Chief, Wireline Competition Bureau:

I. INTRODUCTION

1. In this Order, the Wireline Competition Bureau (WCB or Bureau) dismisses and denies South Central Connect, LLC (South Central) and Union Telephone Company's (Union) Petition for Reconsideration of the Bureau's *High-Cost Fabric Order*.¹ The Bureau rejects South Central and Union's request to engage in an additional location adjustment process relying on the Federal Communications Commission's (Commission) Broadband Serviceable Location (BSL) Fabric (Fabric) for final required location buildout totals, and clarifies that WCB had already adopted the use of the Fabric to verify the Connect America Fund (CAF) Phase II auction carriers' compliance with their obligations.

2. The Bureau also grants in part and denies in part Tri-Co Connections, LLC's (Tri-Co) request for waiver of the support recovery required by section 54.320(d)(2) of the Commission's rules because, based on the Fabric, the actual number of locations in Tri-Co's CAF Phase II auction service area is lower than its required number of locations.² We deny Tri-Co's petition to the extent it seeks relief from the required support recovery if, based on the June 2026 Fabric, Tri-Co's service area includes 95% or more of the number of locations it is required to serve.³ However, WCB grants Tri-Co's petition in part to the extent that the location discrepancy exceeds 5% based on the June 2026 Fabric and Tri-Co has served all actual locations. If this were to happen, Tri-Co is responsible for paying the required support recovery for the first 5% of locations that make up the discrepancy, and we waive section 54.320(d)(2) of the Commission's rules and reduce support on a pro rata basis for the remaining locations that make up the discrepancy.⁴

¹ South Central Connect, LLC and Union Telephone Company Petition for Reconsideration, WC Docket No. 10-90 et al. (filed Apr. 4, 2025) (South Central and Union Petition); *Connect America Fund et al.*, WC Docket No. 10-90 et al., Order, 40 FCC Rcd 281, 284-290, paras. 9-18 (WCB 2025) (*High-Cost Fabric Order*).

² Tri-Co Connections, LLC Petition for Waiver and for Modification of Defined CAF II Deployment Obligations, WC Docket No. 10-90 (filed July 2, 2025) (Tri-Co Petition).

³ 47 CFR §§ 54.310(c)(2), 54.320(d)(2); *Connect America Fund et al.*, WC Docket No. 10-90 et al., Report and Order et al., 31 FCC Rcd 5949, 5965-66, 6017, paras. 44-47, 191 (2016) (*CAF Phase II Auction Order*).

⁴ 47 CFR §§ 54.310(c)(2), 54.320(d)(2).

II. BACKGROUND

3. Carriers receiving support as a result of the CAF Phase II auction must offer voice and broadband service meeting the relevant performance requirements to a defined number of locations by certain interim service milestones.⁵ The number of locations carriers are required to serve is based on the Connect America Cost Model's (CAM) estimate of how many locations are in the eligible census blocks in the carrier's service area, and compliance with service milestones is determined on a state-level basis—i.e., the Bureau will confirm a carrier is serving the required location totals across all of its eligible census blocks within a state, rather than on a census block-by-census block basis.⁶ More specifically, CAF Phase II auction carriers must offer voice and broadband service meeting the relevant performance obligations to 40% of the required number of locations by December 31, 2022; 60% of the required number of locations by December 31, 2023; 80% of the required number of locations by December 31, 2024; and 100% of the required number of locations by December 31, 2025.⁷

4. Carriers are required to report the locations where they are offering service meeting the required performance obligations in the High Cost Universal Broadband (HUBB) portal and certify the data on an annual basis.⁸ Anticipating that CAF Phase II auction support recipients might face unexpected obstacles in building out their networks, the Commission provided these carriers with the flexibility to deploy to 95% of their defined deployment obligation in a given state and repay a certain amount of support in lieu of being found in default.⁹ Specifically, if a carrier elects to deploy to at least 95% but less than 100% of the required number of locations, its support is reduced by an amount equal to the number of locations not served multiplied by 1.89 times the average support amount per location in the state.¹⁰

5. The Commission takes compliance with the terms and conditions of the CAF Phase II auction support mechanism seriously and imposes non-compliance measures if the requirements are not met. For the final 100% service milestone, if a CAF Phase II auction carrier fails to serve at least 95% of its required number of locations, the Commission requires that the Bureau recover “an amount of support that is equal to 1.89 times the average amount of support per location received in the state over the six-year period for the relevant number of locations the [carrier] has failed to offer service to, plus 10 percent of the [carrier's] total [CAF] Phase II support received in the state over the six-year period for deployment.”¹¹ Carriers must pay the required support recovery within six months after support recovery

⁵ 47 CFR § 54.310(a), (c); *CAF Phase II Auction Order*, 31 FCC Rcd at 5964, para. 40; *Connect America Fund et al.*, WC Docket No. 10-90 et al., Order, 35 FCC Rcd 109, 112, para. 9 (2020) (*CAF Phase II Auction Alignment Order*).

⁶ *CAF Phase II Auction Order*, 31 FCC Rcd at 5966, para. 46.

⁷ 47 CFR § 54.310(c); *CAF Phase II Auction Order*, 31 FCC Rcd at 5964, para. 40; *CAF Phase II Auction Alignment Order*, 35 FCC Rcd at 112, para. 9.

⁸ 47 CFR § 54.316.

⁹ 47 CFR § 54.310(c)(2); *CAF Phase II Auction Order*, 31 FCC Rcd at 5965-66, paras. 44-47.

¹⁰ 47 CFR § 54.310(c)(2); *CAF Phase II Auction Order*, 31 FCC Rcd at 5965-66, paras. 44-47. The Commission determined that 1.89 is equivalent to “one-half the average support for the top five percent of the highest cost funded locations nationwide.” *Connect America Fund et al.*, WC Docket No. 10-90 et al., Report and Order, 29 FCC Rcd 15644, 15660-61, para. 42 (2014) (*2014 Connect America Order*); *CAF Phase II Auction Order*, 31 FCC Rcd at 5966, para. 45.

¹¹ *CAF Phase II Auction Order*, 31 FCC Rcd at 6017, para. 191; 47 CFR § 54.320(d)(2). A CAF Phase II auction carrier has one year after the final service milestone to cure its non-compliance before we will initiate support recovery. 47 CFR § 54.320(d)(2).

is initiated, or the Bureau will direct the Universal Service Administrative Company (USAC or Administrator) to draw on the carrier's letter of credit.¹²

6. After the adoption of the CAF Phase II auction rules and prior to the auction, several parties sought clarification on whether the Commission would give funding recipients the opportunity to bring to the Commission's attention any discrepancies between the number of funded locations and the number of actual locations in a state.¹³ To address these concerns, the Commission created a challenge process to facilitate adjustments to defined deployment obligations on a statewide basis and directed the Bureau to adjust support and implement procedures for the process.¹⁴

7. To participate in the CAF Phase II auction, the Commission required that bidders certify in their short-form applications that they had the sole responsibility for conducting due diligence.¹⁵ The Commission specifically acknowledged that the number of required locations would be based on CAM estimates and emphasized that "[e]ach applicant should verify that it can identify enough locations within the eligible census blocks that it intends to include in its bids to be able to offer service meeting the relevant requirements to the required number of locations if it becomes a winning bidder and is authorized to receive" CAF Phase II auction support.¹⁶

8. Noting that it had adopted a location adjustment process for support recipients that "cannot identify enough locations to meet their state location totals" to "demonstrate that the number of actual, on-the-ground locations is lower than the number estimated by the CAM," the Commission in announcing procedures for the CAF Phase II auction explained that "[a]pplicants' due diligence should be informed by the availability of and requirements for this process, in addition to other factors."¹⁷ The Commission stated that the due diligence certification would help ensure that a carrier would take responsibility for its bids and would "not attempt to place responsibility for the consequences of its bidding activity" on the Commission.¹⁸

9. *ELAP.* After the CAF Phase II auction, the Bureau adopted procedures for the Eligible Locations Adjustment Process (ELAP) consistent with the parameters set forth in the *CAF Phase II Auction Reconsideration Order* and prior Commission guidance for making adjustments to defined deployment obligations.¹⁹ As directed by the Commission, the Bureau permitted CAF Phase II auction support recipients to participate in ELAP on a voluntary basis by submitting to the Commission certain

¹² 47 CFR § 54.315(c)(4)(i); *CAF Phase II Auction Order*, 31 FCC Rcd at 6017, para. 191.

¹³ *Connect America Fund et al.*, WC Docket No. 10-90 et al., Order on Reconsideration, 33 FCC Rcd 1380, 1389, para. 22 (2018) (*CAF Phase II Auction Reconsideration Order*); see also Request for Clarification or Partial Reconsideration of Southern Tier Wireless, Inc., WC Docket No. 10-90 et al., at 4-5 (filed July 20, 2016); Petition for Reconsideration of Broad Valley Micro Fiber Networks, Inc., WC Docket No. 10-90 et al., at 3 (filed July 20, 2016); Petition for Clarification or Reconsideration of Crocker Telecommunications, LLC, WC Docket No. 10-90 et al., at 3-4 (filed July 18, 2016).

¹⁴ *CAF Phase II Auction Reconsideration Order*, 33 FCC Rcd at 1389-90, paras. 23-25 & n.62 (explaining that the "new support amount in the state would be reduced by (total state support/model locations) x number of deficient locations").

¹⁵ *Connect America Fund Phase II Auction Scheduled for July 24, 2018; Notice and Filing Requirements and Other Procedures for Auction 903*, AU Docket No. 17-182 et al., Public Notice, 33 FCC Rcd 1428, 1472, para. 119. (2018) (*Auction 903 Procedures Public Notice*).

¹⁶ *Id.* at 1471, para. 114.

¹⁷ *Id.* at 1471-72, para. 114.

¹⁸ *Id.* at 1472, para. 119.

¹⁹ See generally *Connect America Fund*, WC Docket No. 10-90, Order, 34 FCC Rcd 10395 (WCB 2019) (*Locations Adjustment Order*).

location information (e.g., geocoordinates, addresses) for locations within their supported areas in a state, with an opportunity for stakeholders to challenge the information submitted.²⁰

10. By August 3, 2021, the ELAP participant filing deadline, 25 participants reporting for 23 states submitted all required ELAP information.²¹ On February 9, 2023, the Bureau released an order determining that each ELAP participant had met its burden of proof and modifying the obligations and support of each of these participants, state by state on a pro rata basis.²²

11. *Fabric.* In July 2020 and January 2021, the Commission adopted rules establishing certain elements of the Fabric, consistent with the Broadband DATA Act.²³ The Broadband DATA Act defines the Fabric as the “common dataset of all locations in the United States where fixed broadband internet access service can be installed, as determined by the Commission,”²⁴ and directs that the Fabric “shall . . . serve as the foundation upon which all data relating to the availability of fixed broadband internet service . . . shall be reported and overlaid.”²⁵ The Broadband DATA Act also requires the Commission to create a process whereby information included in the Fabric may be challenged by “consumers, State, local and Tribal government entities, and other entities or individuals.”²⁶ In November 2021, the Commission awarded the contract for Fabric development to CostQuest Associates.²⁷ In April 2022, the Broadband Data Task Force, WCB, and the Office of Economics and Analytics (OEA) provided access to a preliminary version of the Fabric,²⁸ in June 2022 released the first production version of the Fabric,²⁹ and have continued to release updated versions of the Fabric every six months.³⁰

²⁰ *Id.* at 10397-10413, paras. 18-49.

²¹ Connect America Fund Phase II Auction (Auction 903), “Summary of Eligible Locations Adjustment Process Prima Facie Participant Location Information by State and Study Area Code,” <https://www.fcc.gov/auction/903> (identifying participants) (ELAP Participant Summary).

²² *See generally* *Connect America Fund*, WC Docket No. 10-90, Order, 38 FCC Rcd 1135 (WCB 2023) (*ELAP Resolution Order*). For details regarding these modifications, *see id.* at 1143-44, Attach.

²³ *Establishing the Digital Opportunity Data Collection; Modernizing the FCC Form 477 Data Program*, WC Docket No. 19-195 et al., Second Report and Order and Third Further Notice of Proposed Rulemaking, 35 FCC Rcd 7460, 7483-84, paras. 52-54 (2020) (*Second BDC Report and Order*); *Establishing the Digital Opportunity Data Collection; Modernizing the FCC Form 477 Data Program*, WC Docket No. 19-195 et al., Third Report and Order, 36 FCC Rcd 1126, 1175-77, paras. 126-32 (2021) (*Third BDC Report and Order*). In March 2020, Congress passed the Broadband DATA Act which requires the Commission to establish a semiannual collection of geographically granular fixed broadband availability data for publication on the National Broadband Map, adopt processes for the public to challenge that availability data and for accepting crowdsourced information, and create a comprehensive dataset of Broadband Serviceable Locations (BSL). Broadband Deployment Accuracy and Technological Availability Act, Pub. L. No. 116-130, 134 Stat. 228 (2020) (codified at 47 U.S.C. §§ 641-646) (Broadband DATA Act).

²⁴ 47 U.S.C. § 642(b)(1)(A)(i).

²⁵ 47 U.S.C. § 642(b)(1)(B)(ii).

²⁶ 47 U.S.C. § 642(b)(5)(A).

²⁷ *Broadband Data Task Force Announces Access to Preliminary Broadband Serviceable Location Fabric to Fixed Service Providers and Guidance for Filing Fixed Broadband Availability Data*, WC Docket No. 19-195 et al., Public Notice, 37 FCC Rcd 5046, 5048 (BDTF, OEA, WCB 2022) (*Preliminary Fabric Public Notice*).

²⁸ *See generally id.*

²⁹ *Broadband Data Task Force Announces the Availability of the Production Version of the Broadband Serviceable Location Fabric*, WC Docket No. 19-195 et al., Public Notice, 37 FCC Rcd 7537 (BDTF, WCB, OEA 2022).

³⁰ *See, e.g., Broadband Data Task Force Announces Opening of Seventh Broadband Data Collection Filing Window and Release of Updated Broadband Serviceable Location Fabric*, WC Docket No. 11-10 et al., Public Notice, 40

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12. In January 2025, the Bureau released an order adopting the use of the Fabric “for generally verifying compliance with high-cost program deployment obligations” for all high-cost programs.³¹ The Bureau also adopted procedures for the location adjustment process using the Fabric for Rural Digital Opportunity Fund (RDOF), Bringing Puerto Rico Together Fund, the Connect USVI Fund, Alternative Connect America Cost Model (A-CAM) I, Revised A-CAM I, and A-CAM II carriers.³² In a footnote, the Bureau explained that a location adjustment process for the CAF Phase II auction was outside the scope of the *High-Cost Fabric Order* because the Bureau had already conducted ELAP.³³

13. *South Central and Union Petition for Reconsideration.* Union and the Rural Electric Cooperative Consortium (RECC), a bidding consortium of which South Central was a part, separately submitted short form applications to participate in the CAF Phase II auction pursuant to the program rules and were found qualified to bid.³⁴ Union and RECC (on behalf of South Central) then placed winning bids in the auction, each identifying the areas where it would like to provide service meeting the CAF Phase II auction obligations, the performance tier and level of latency at which it proposed to provide service, and the level of support it would need to offer voice and broadband service meeting the relevant performance obligations.³⁵ RECC then assigned certain of its winning bids to South Central.³⁶

14. South Central and Union each filed a long-form application seeking to be authorized to receive support for winning bids in exchange for the deployment of voice and broadband to locations covered by its assigned winning bids.³⁷ In 2019, South Central was authorized to receive \$2,826,047 in CAF Phase II auction support over 10 years to serve a model-estimated 566 locations in Arkansas.³⁸ Also in 2019, Union was authorized to receive \$5,437,562 in CAF Phase II support over 10 years to serve a model-estimated 1,468 locations in Wyoming.³⁹ Neither South Central nor Union participated in ELAP.⁴⁰ The final CAF Phase II auction buildout deadline for each support recipient was December 31, 2025,⁴¹ at which point all CAF Phase II support recipients were to have completed buildout to 100% of the locations in their winning bid areas, or to 100% of those locations as reduced by their participation in the ELAP.⁴²

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FCC Rcd 4307 (BDTF 2025) (*Version 7 Fabric Public Notice*) (announcing the release of Version 7 of the Fabric to existing Fabric licensees).

³¹ *High-Cost Fabric Order*, 40 FCC Rcd at 284-90, paras. 9-18.

³² *Id.* at 290-310, paras. 19-70.

³³ *Id.* at 282, para. 2 n.3.

³⁴ *220 Applicants Qualified to Bid in the Connect America Fund Phase II Auction (Auction 903); Bidding to Begin on July 24, 2018*, AU Docket No. 17-182 et al., Public Notice, 33 FCC Rcd 6171 (WCB/WTB 2018) (*Auction 903 Qualified Bidders Public Notice*).

³⁵ *Auction 903 Procedures Public Notice*, 33 FCC Rcd at 1493, paras. 199-202.

³⁶ *134 Long-Form Applicants in the Connect America Fund Phase II Auction (Auction 903)*, AU Docket No. 17-182 et al., Public Notice, 33 FCC Rcd 10967 (WCB/WTB 2018) (*Auction 903 Long-Form Applicants Public Notice*).

³⁷ *Id.*

³⁸ *Connect America Phase II Auction Support Authorized for 459 Winning Bids*, AU Docket No. 17-182 et al., Public Notice, 34 FCC Rcd 3142 (WCB/OEA 2019).

³⁹ *Connect America Phase II Auction Support Authorized for 387 Winning Bids*, AU Docket No. 17-182 et al., Public Notice, 34 FCC Rcd 9406 (WCB/OEA 2019).

⁴⁰ See ELAP Participant Summary.

⁴¹ 47 CFR § 54.310(c); *CAF Phase II Auction Alignment Order*, 35 FCC Rcd 109.

⁴² *CAF Phase II Auction Alignment Order*, 35 FCC Rcd at 112, para. 9.

15. On April 4, 2025, South Central and Union filed what they styled a Petition for Reconsideration of the Bureau's *High-Cost Fabric Order*,⁴³ arguing that the Commission should use the Fabric both to generally verify high-cost obligations and for an additional location adjustment process for CAF Phase II auction location counts.⁴⁴ Petitioners assert that "the Bureau should reconsider its decision . . . to exclude CAF II support recipients from the processes and policies that will rely on the Fabric as the basis for verifying compliance with deployment obligations and for identifying broadband serviceable locations."⁴⁵

16. *Tri-Co Petition for Waiver*. Tri County Rural Electric Cooperative, Inc. (Tri County Rural Electric), Tri-Co's parent company, submitted a short-form application to participate in the CAF Phase II auction pursuant to the program rules and was found qualified to bid.⁴⁶ Tri County Rural Electric then bid in the auction, identifying the areas where it would like to provide service meeting the CAF Phase II auction obligations, the performance tier and level of latency at which it proposed to provide service, and the level of support it would need to offer voice and broadband service meeting the relevant performance obligations.⁴⁷

17. Tri County Rural Electric successfully outbid another auction participant in certain areas in Pennsylvania.⁴⁸ Tri County Rural Electric then assigned all of its winning bids to Tri-Co.⁴⁹ Tri-Co filed a long-form application seeking to be authorized to receive support for winning bids in exchange for the deployment of voice and broadband to locations covered by its assigned winning bids.⁵⁰ In August 2019, Tri-Co was authorized to receive \$32,326,228 in CAF Phase II auction support over 10 years to serve 7,015 locations in Pennsylvania.⁵¹ Tri-Co did not participate in ELAP.⁵²

18. In July 2025, Tri-Co filed a petition seeking waiver of the Commission's support recovery rules and to have its required location total adjusted downward to reflect the number of units in its service area based on the latest version of the Fabric.⁵³ Based on the version of the Fabric used for the Broadband Data Collection (BDC) reporting as of December 2025 (Version 8), in Tri-Co's CAF Phase II auction service area there are 6,635 units associated with BSLs that qualify for CAF Phase II auction support—i.e., approximately 94.5% of the 7,015 locations that Tri-Co is required to serve pursuant to its CAF Phase II auction obligations.⁵⁴

⁴³ *High-Cost Fabric Order*, 40 FCC Rcd at 284-290, paras. 9-18.

⁴⁴ South Central and Union Petition at 1-2.

⁴⁵ *Id.* at 5.

⁴⁶ See generally *Auction 903 Qualified Bidders Public Notice*, 33 FCC Rcd 6171.

⁴⁷ *Auction 903 Procedures Public Notice*, 33 FCC Rcd at 1493, paras. 199-202.

⁴⁸ *Connect America Fund Phase II Auction (Auction 903) Closes; Winning Bidders Announced; FCC Form 683 Due October 15, 2018*, AU Docket No. 17-182 et al., Public Notice, 33 FCC Rcd 8257, 8279, Attach. A (WCB/WTB 2018) (*Auction 903 Closing Public Notice*).

⁴⁹ See generally *Auction 903 Long-Form Applicants Public Notice*, 33 FCC Rcd 10967.

⁵⁰ *Id.*

⁵¹ *Connect America Phase II Auction Support Authorized for 593 Winning Bids*, AU Docket No. 17-182 et al., Public Notice, 34 FCC Rcd 7081 (WCB/OEA 2019).

⁵² See ELAP Participant Summary.

⁵³ See generally *Tri-Co Petition*.

⁵⁴ A BSL is a business or residential location in the United States at which fixed broadband Internet access service is, or can be, installed. High-cost carriers are required to serve housing units and small businesses, i.e., businesses to which mass market services will be made available. CostQuest Associates, Inc., *Connect America Cost Model*

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19. Tri-Co argues it should not be subject to the required support recovery for failure to serve the required number of locations because there are not enough actual locations to serve the required number of locations, it has served “nearly 98%” of actual locations, and the “policy objective” of the CAF Phase II auction “is to support and ensure the deployment of broadband services to all serviceable locations.”⁵⁵ Tri-Co references the Bureau’s decision to allow Rural Broadband Experiment (RBE) carriers to reduce their required location total to the “number of actual locations that they had identified,” arguing that this was an example of the Bureau finding “that it does not serve the public interest to penalize High-Cost support recipients for their inability to deploy their broadband facilities to serve locations that are identified by the CAM but that, in fact, do not exist.”⁵⁶

20. Tri-Co also claims that if it has to pay the required support recovery, “the company would be forced to recoup the lost support from its rural customers,” many of which “fall below the national poverty level,” and that the support recovery would “have a crippling effect on Tri-Co.”⁵⁷ Tri-Co argues that it would be “equitable” to allow Tri-Co to adjust its location total because it adopted similar processes for the RDOF and other high-cost programs, and that the Bureau “should accept the data from its own Fabric and acknowledge that the CAM data significantly overstates Tri-Co’s actual [CAF Phase II auction] serviceable locations” given the Bureau’s intention to verify high-cost support recipients’ compliance with Fabric data.⁵⁸

21. Tri-Co also claims that ELAP was a voluntary process that occurred early on in the deployment term without the benefit of the Fabric.⁵⁹ Because Tri-Co can now more easily demonstrate the number of actual locations in its service area using the Fabric, Tri-Co seeks the “same relief that is being afforded to RDOF support recipients” for which the Bureau decided it would find good cause to waive service milestones if RDOF providers can demonstrate there are not enough actual locations in their service areas to meet the service milestones.⁶⁰ Tri-Co also later expressed concern that imposing support recovery in this situation “could prove detrimental” to Tri-Co’s “future broadband funding opportunities,” given that many funding programs “consider an applicant’s compliance with prior broadband buildout obligations when deciding how to allocate program funding.”⁶¹

III. DISCUSSION

A. South Central and Union Petition for Reconsideration

22. We dismiss the Petition for Reconsideration’s request that the Commission should use the Fabric to verify high-cost obligations in the CAF Phase II proceeding, and we deny the request for an

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(CACM): Model Methodology 12-15 (Dec. 22, 2014), <https://www.fcc.gov/sites/default/files/CAM-Methodology-V4-2.pdf> (CAM Methodology). We use “location” throughout this Order to refer to the number of units associated with a housing unit or small business BSL in the Fabric. Tri-Co originally asserted in its petition that Version 6 of the Fabric showed 5,985 BSLs or approximately “16% fewer locations than originally identified by the CAM,” and later acknowledged that Version 6 identified 6,952 units associated with these BSLs. Tri-Co Petition at 4; Letter from Todd B. Lantor, Counsel to Tri-Co Connections, LLC, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 10-90 (filed July 10, 2025) (Tri-Co July 10, 2025 *Ex Parte* Letter).

⁵⁵ Tri-Co Petition at 6-9.

⁵⁶ *Id.* at 7-8. *See also* Tri-Co July 10, 2025 *Ex Parte* Letter at 2.

⁵⁷ Tri-Co Petition at 6, 8.

⁵⁸ *Id.* at 9-10.

⁵⁹ *Id.* at 10-11.

⁶⁰ *Id.* at 11.

⁶¹ Tri-Co July 10, 2025 *Ex Parte* Letter at 2.

additional location adjustment process for CAF Phase II auction location counts relying on the Fabric.⁶² Initially, the Bureau has already noted in the *High-Cost Fabric Order* that it intends to rely on the Fabric to verify all high-cost buildout obligations, and thus no reconsideration is needed to accomplish that reliance.⁶³ Second, though this Petition is framed as a Petition for Reconsideration of the 2025 *High-Cost Fabric Order*, it is instead an untimely request for reconsideration of the 2019 *Locations Adjustment Order* that established the ELAP mechanism by which CAF Phase II auction locations counts could be adjusted.⁶⁴ The *Locations Adjustment Order* set forth the ELAP process for revising location counts for CAF Phase II auction participants, so creating a new location adjustment for CAF Phase II was not within the delegation that authorized the *High-Cost Fabric Order* in 2025. The reference to CAF Phase II in footnote three of the *High-Cost Fabric Order* did not re-open the issue of a CAF Phase II auction location adjustment process, but merely stated that the location adjustment process for CAF II had already occurred.⁶⁵ We further note that the statement in the *High Cost Fabric Order* that the Fabric would be used to verify compliance with deployment obligations for all high-cost mechanisms also did not re-open the issue of a location adjustment process for CAF Phase II.⁶⁶

23. Petitioners, like all CAF Phase II auction participants, certified prior to the auction that they had performed due diligence on the areas in which they were placing their bids to determine whether they could fulfill the program requirements in those areas.⁶⁷ ELAP was held two years after petitioners were authorized to begin receiving CAF Phase II support. Petitioners could have used that time to continue their due diligence in investigating whether there were sufficient locations in their winning bid areas to fulfill their CAF Phase II auction commitments, and if they had determined that there were insufficient locations, ELAP would have relieved them of obligations they were unable to meet due to realities on the ground.

24. The rationales that petitioners offer for not participating in ELAP are typical business decisions, not changed circumstances, and do not persuade us to give petitioners another opportunity to reduce their location totals without the full required support recovery.⁶⁸ While Petitioners emphasize that ELAP was voluntary,⁶⁹ it was voluntary in the sense that those participants that had determined that there were sufficient locations to meet their obligations need not participate—but those participants that had fewer locations than estimated and that desired to avoid the full support recovery were on notice of the need to participate in ELAP. In choosing not to participate in ELAP, a CAF Phase II auction participant

⁶² Public notice is not required under section 1.429(e) of the Commission's rules (which requires publishing in the Federal Register "public notice" of a petition for reconsideration's filing, 47 CFR §§ 1.3, 1.429(e)) because the petition is untimely and outside the scope of the *High-Cost Fabric Order*, and it was not "timely filed in proper form."

⁶³ *High-Cost Fabric Order*, 40 FCC Rcd at 284-90, paras. 9-18.

⁶⁴ See *Locations Adjustment Order*, 34 FCC Rcd. at 10397-10413, paras. 18-49; 47 CFR § 1.429(d).

⁶⁵ *High-Cost Fabric Order*, 40 FCC Rcd at 282, para. 2 n.3.

⁶⁶ *Id.* at 284-90, paras. 9-18.

⁶⁷ 47 CFR § 54.315(a)(2); *Auction 903 Procedures Public Notice*, 33 FCC Rcd at 1471-73, paras. 112-20.

⁶⁸ South Central and Union Petition at 4, n.15 (noting that at the time of ELAP, Union was participating in equipment replacement related to the Secure and Trusted Communications Networks Act of 2019, experiencing employee turnover, and maintaining operations during the COVID-19 pandemic. South Central states that it did not anticipate a substantial discrepancy between its CAF Phase II estimated locations and the locations it was identifying on the ground, so it could not justify the "considerable resources that would be needed to participate in ELAP.").

⁶⁹ *Locations Adjustment Order*, 34 FCC Rcd at 10397-10413, paras. 18-49; South Central and Union Petition at 4 and 10.

also elected the option to receive support for any new locations constructed between the time of ELAP and the end of the term. Further, it would be contrary to the public interest and undermine future analogous processes if we were to say now that ELAP was not a needed process for those who wished to reduce their location obligations—participants that did take part in ELAP spent significant time and resources correcting their obligations, lost any option to receive support for any newly constructed locations, and received reduced ongoing support.

25. CAF Phase II auction support recipients were also granted flexibility to serve at least 95% of the model locations, rather than a 100% service requirement.⁷⁰ The Commission previously considered and rejected a petition to increase that flexibility in the *CAF Phase II Auction Reconsideration Order*, noting that the 95% flexibility was the right measure to encourage auction participation without incentivizing stranded unserved locations.⁷¹ The Commission reasoned that 95% flexibility allowed just enough flexibility that an auction participant would still plan its buildout to serve 100% of locations and would only rely on the 5% flexibility if unavoidable.⁷²

26. Furthermore, petitioners did not raise the issue of additional CAF Phase II auction location adjustments during the comment period for the *High-Cost Fabric Order*. After not performing adequate due diligence prior to the auction, not participating in ELAP, not commenting during the period when the *High-Cost Fabric Order* was under consideration, and waiting until mere months before the final buildout deadline of the multi-year CAF Phase II process to suggest an additional location adjustment process, the Petition for Reconsideration is not only untimely but also beyond the scope of the *High Cost Fabric Order* and is therefore denied.⁷³ In the event that South Central and Union file Petitions for Waiver seeking relief similar to that granted to Tri-Co below, those Petitions would be considered on their own merits.⁷⁴

B. Tri-Co Petition for Waiver

27. Generally, the Commission's rules may be waived for good cause shown.⁷⁵ Waiver of the Commission's rules is appropriate only if both: (1) special circumstances warrant a deviation from the general rule, and (2) such deviation will serve the public interest.⁷⁶

28. We find good cause to grant Tri-Co's petition in part, but we also deny Tri-Co's petition in part. Specifically, we find that to the extent that Tri-Co serves all actual locations within its CAF Phase II auction service area and there is a discrepancy between the actual number of locations in Tri-Co's CAF Phase II auction service area based on the version of the Fabric for reporting June 30, 2026 BDC data (June 2026 Fabric) and the required number of locations, we will reduce support as follows. For the first 5% of locations that make up the discrepancy, we will reduce Tri-Co's support based on the

⁷⁰ *CAF Phase II Auction Order*, 31 FCC Rcd at 5966, para. 45.

⁷¹ *CAF Phase II Auction Reconsideration Order*, 33 FCC Rcd at 1393-4, paras. 32-25.

⁷² *Id.*

⁷³ 47 CFR § 1.429(l)(5).

⁷⁴ South Central also submitted a petition for waiver seeking similar relief, but later withdrew it after it determined based on a later version of the Fabric that there was no longer a location discrepancy between the Fabric and its CAF Phase II auction required location total. South Central Connect, LLC Petition for Waiver and for Modification of Defined CAF II Deployment Obligations, WC Docket No. 10-90 (filed Apr. 21, 2025); Motion to Withdraw Petition for Waiver and for Modification of Defined CAF II Deployment Obligations, WC Docket No. 10-90 (filed July 22, 2025).

⁷⁵ 47 CFR § 1.3.

⁷⁶ See *Northeast Cellular Tel. Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990) (citing *WAIT Radio v. FCC*, 418 F.2d 1153, 1157-59 (D.C. Cir. 1969), *cert. denied*, 93 S.Ct. 461 (1972)).

average support per location in the state times 1.89 for the number of locations between the actual locations and required locations consistent with the 95% flexibility option the Commission adopted for CAF Phase II auction carriers.⁷⁷ Thus, we effectively deny Tri-Co's petition in part to the extent it would seek to instead reduce its support on a pro rata basis for those locations within the 5% threshold. However, to the extent that more than 5% of locations do not exist in Tri-Co's service area based on the June 2026 Fabric and Tri-Co has served all actual locations, we will reduce Tri-Co's support on a pro rata basis for the number of locations that exceed the 5%. Thus, we grant Tri-Co's petition in part for any locations that exceed the 5% if these circumstances occur.⁷⁸

29. The fact that Tri-Co has now discovered a discrepancy between the CAM-estimated location total and the actual locations in its CAF Phase II auction service area is not a special circumstance that warrants the full relief that Tri-Co requests.⁷⁹ The Commission emphasized prior to the auction that such discrepancies could occur and adopted a specific approach for addressing these discrepancies.⁸⁰ CAF Phase II auction carriers participated in the auction fully on notice regarding these terms and conditions of the program and made a due diligence certification in their short-form applications prior to bidding.⁸¹ First, the Commission emphasized that carriers were responsible for conducting due diligence prior to bidding to identify where there may be discrepancies so that they could bid strategically.⁸² Second, the Commission adopted ELAP to give carriers an opportunity to have their

⁷⁷ As a simplified example, if a carrier is required to serve 100 locations and receives \$1,000 in 10-year CAF Phase II auction support, but there are only 97 actual locations within the carrier's service area and the carrier serves all 97 locations, we would reduce the carrier's support by \$56.70 as follows: $((\$1,000/100) \times 1.89 \times 3 \text{ locations}) = \56.70 ; $\$1,000 - \$56.70 = \$943.30$.

⁷⁸ As a simplified example, if a carrier is required to serve 100 locations and receives \$1,000 in 10-year CAF Phase II auction support, but there are only 93 actual locations (5 locations within the 5% threshold and 2 locations outside of the 5% threshold) within the carrier's service area and the carrier serves all 93 locations, we would reduce the carrier's support by as follows: 1) 95% calculation: $((\$1,000/100) \times 1.89 \times 5 \text{ locations}) = \94.50 ; 2) pro rata calculation: $((\$1,000/100) \times 2 \text{ locations}) = \20 ; 3) support reduction: $(\$1,000 - (\$94.5 + \$20)) = \885.50 . It is unclear whether Tri-Co is also seeking waiver of a pro rata support reduction if there is a location discrepancy. Tri-Co Petition at 1 (seeking a general waiver of the Commission's CAF Phase II auction "default rules" and citing 47 CFR § 54.320(d)(2)). To the extent Tri-Co is seeking waiver of the pro rata support reduction, we deny that request for the reasons we discuss in this order.

⁷⁹ Tri-Co Petition at 6-7.

⁸⁰ See, e.g., *CAF Phase II Auction Order*, 31 FCC Rcd at 5965-66, paras. 44-46; *CAF Phase II Auction Reconsideration Order*, 33 FCC Rcd at 1389-90, paras. 23-25; *Auction 903 Procedures Public Notice*, 33 FCC Rcd at 1471-72, para. 114.

⁸¹ *Auction 903 Procedures Public Notice*, 33 FCC Rcd at 1471-72, paras. 111-19.

⁸² See, e.g., *CAF Phase II Auction Reconsideration Order*, 33 FCC Rcd at 1390, 1392, paras. 25, 32 (explaining "[b]ecause compliance will be determined on a state-wide basis, the bidder can identify additional locations in the other eligible census blocks within the census block group or choose to bid on additional census block groups where it is able to identify more locations in eligible census blocks than the CAM had identified to meet its statewide total"; and emphasizing "applicants are required to conduct the necessary due diligence prior to submitting their short-form applications, including identifying locations they will serve within the eligible areas, so that they can certify that they will be able to meet the relevant public interest obligations when they submit their applications"); *Auction 903 Procedures Public Notice*, 33 FCC Rcd at 1471-72, paras. 111, 114 (requiring bidders to make a due diligence certification and explaining that as part of this due diligence "[e]ach applicant should verify that it can identify enough locations within the eligible census blocks that it intends to include in its bids to be able to offer service meeting the relevant requirements to the required number of locations if it becomes a winning bidder and is authorized to receive [CAF] Phase II [auction] support"); *CAF Phase II Auction Order*, 31 FCC Rcd at 5966, para. 47 ("Potential bidders are responsible for undertaking the necessary due diligence in advance of bidding to identify

(continued....)

support and obligations adjusted to account for discrepancies.⁸³ Third, the Commission retained the 95% flexibility for ELAP participants so that they could address any unforeseen circumstances, including any location discrepancies that may appear after ELAP had concluded.⁸⁴ Finally, the Commission made clear that carriers that did not serve 100% of their required number of locations would be subject to support recovery determined using an objective calculation.⁸⁵

30. We are not convinced that Tri-Co presents any special circumstances justifying deviation from the terms and conditions of the program to which it and its parent company agreed. Tri-Co argues such special circumstances derive from the fact that it can now more easily substantiate the discrepancy due to the availability of the Fabric.⁸⁶ In fact, the location discrepancy does not constitute “circumstances beyond its control,” because Tri-Co could have taken earlier steps to address the fact that its required location total was based on older data that did not accurately depict the facts on the ground.⁸⁷

31. Tri-Co does not explain whether it conducted the required due diligence prior to bidding so that it could have made strategic decisions in deciding where to bid and how much support to bid for. Moreover, Tri-Co does not provide much explanation for why it “opted not to participate in ELAP” other than to suggest that ELAP occurred too early in the support term and without the benefit of being able to use the Fabric.⁸⁸ There is no indication that Tri-Co raised concerns when the location adjustment process was adopted prior to the auction or when the Bureau was soliciting feedback for ELAP. And finally, despite being on notice that Tri-Co would be subject to an objective support recovery calculation if it chose not to participate in ELAP and a discrepancy was later found,⁸⁹ Tri-Co now claims that the support recovery would be too expensive when applied to its specific circumstances.⁹⁰

32. We also find that it would not serve the public interest to grant the full relief that Tri-Co requests. Such an approach would undermine auction integrity. Carriers may have bid differently in the auction if they had known they could forgo participating in ELAP without being subject to the 95%

(Continued from previous page) _____
particularly problematic census blocks when they are preparing their bids and have the option of not including such blocks in their bids.”).

⁸³ *Phase II Auction Reconsideration Order*, 33 FCC Rcd at 1389-90, paras. 23-25.

⁸⁴ *Id.* at 1389, para. 23, n.61. *See also Connect America Fund*, WC Docket No. 10-90, Order, 40 FCC Rcd 3257, 3268-69, para. 22 (WCB 2025) (*2025 ELAP Order*) (“The Commission plainly established the 5% flexibility as a built-in mechanism to allow for necessary location adjustments later in the deployment plan . . .”).

⁸⁵ 47 CFR §§ 54.310(c)(2), 54.320(d); *CAF Phase II Auction Order*, 31 FCC Rcd at 5965-66, 6017, paras. 44-46, 191.

⁸⁶ Tri-Co Petition at 7, 11.

⁸⁷ *Id.* at 6. *See also Connect America Fund*, WC Docket No. 10-90, Order, 36 FCC Rcd 15428, 15438, para. 23 (WCB 2021) (*ELAP Reconsideration Order*) (“Without a more fulsome demonstration that their alleged location shortages were the result of unforeseeable circumstances and could not be reasonably anticipated at the time of bid placement, we are not persuaded that [the petitioning parties] could not have factored at least some of the location discrepancy . . . into their bids.”).

⁸⁸ Tri-Co Petition at 3, 11.

⁸⁹ 47 CFR §§ 54.310(c)(2), 54.320(d); *CAF Phase II Auction Order*, 31 FCC Rcd at 5965-66, 6017, paras. 44-46, 191. *See also ELAP Reconsideration Order*, 36 FCC Rcd at 15436, para. 16 (“[CAF] Phase II auction support recipients risk default if they choose not to participate in ELAP and fail to build out to at least 95% of the requisite number of funded locations, providing sufficient motivation to participate in ELAP and to accurately identify and serve every qualifying actual location in the state as of the end of their build-out period.”).

⁹⁰ *See, e.g.*, Tri-Co Petition at 6, 8; Tri-Co July 10, 2025 *Ex Parte* Letter at 1-2.

flexibility support recovery in circumstances where there was a location discrepancy.⁹¹ Moreover, it would be inequitable to grant Tri-Co's requested relief and recover support from Tri-Co as if it had participated in ELAP. Carriers with fewer locations in their service areas that did comply with the terms and conditions of the program and participated in ELAP went through a resource-intensive process that they may not have otherwise participated in if they knew they could later request the same relief.⁹²

33. In addition to avoiding the burdens of this process, Tri-Co also was able to obtain certain other advantages by not participating in ELAP as compared to those carriers that did participate. If Tri-Co had participated in ELAP, the Bureau would have reduced its support on pro rata basis more than two and a half years ago.⁹³ By making the business decision to not participate in ELAP, Tri-Co was able to take advantage of an interest free loan from the Commission by retaining its full support for two and a half additional years. In addition, in the event that more locations were later built in its service area, Tri-Co by forgoing ELAP was giving itself the opportunity to retain support that it would have had to forgo if it had participated in ELAP. While we acknowledge that ELAP was a voluntary process in that no carrier was required to seek a location adjustment, carriers were on notice that if they did not conduct the required due diligence and then participate in ELAP, they would be subject to the applicable support recovery if there was a location discrepancy.⁹⁴

34. By not participating in ELAP, Tri-Co made the business decision to take on the risk of potential support recovery if it could not later identify enough locations to serve, and we find that it should be subject to the minimum terms and conditions that Tri-Co knew would be applicable at the time it decided to take on that risk. At a minimum, Tri-Co knew that it would be subject to the support recovery associated with the 95% flexibility option if it could not identify enough locations to serve.⁹⁵ In adopting the 95% support recovery option, the Commission recognized that CAF Phase II auction carriers were similarly situated to price cap carriers that accepted CAF Phase II model-based support in that they would face certain "unforeseeable challenges to meeting [their] obligations" due to "facts on the ground" that "may necessitate some flexibility regarding the number of locations,"⁹⁶ which the Commission had previously identified included the "variance between the number of funded locations as specified by the [CAM] and the actual number of locations in a given area" and changes in the number of locations over time.⁹⁷

35. In addressing such issues, the Commission found that applying a multiplier of 1.89 to the required support recovery was a reasonable proxy to account for the fact that a carrier will have served fewer than the number of locations it had agreed to serve in exchange for receiving its authorized support amount.⁹⁸ Thus, we find it serves the public interest to enforce the terms and conditions that the

⁹¹ See, e.g., *Connect America Fund et al.*, WC Docket No. 10-90 et al., Order, 39 FCC Rcd 12627, 12636, para. 23 (WCB 2024); *Connect America Fund et al.*, WC Docket No. 10-90 et al., Order, 40 FCC Rcd 5984, 5991, para. 18 (WCB 2025); *Connect America Fund et al.*, WC Docket No. 10-90 et al., Order, DA 25-845, at 6, para. 14 (WCB Sept. 12, 2025). See also *2025 ELAP Order*, 40 FCC Rcd at 3274-75, para. 36 ("The Commission has deemed the fairness and integrity of past auction processes an essential consideration when considering retroactive changes to the terms and conditions under which bidders placed bids and accepted support . . .").

⁹² See generally *Locations Adjustment Order*, 34 FCC Rcd 10395.

⁹³ See generally *ELAP Resolution Order*, 38 FCC Rcd 1135.

⁹⁴ 47 CFR §§ 54.310(c)(2), 54.320(d); *Auction 903 Procedures Public Notice*, 33 FCC Rcd at 1471-72, para. 114; *CAF Phase II Auction Order*, 31 FCC Rcd at 5965-66, 6017, paras. 44-46, 191.

⁹⁵ 47 CFR § 54.310(c)(2); *CAF Phase II Auction Order*, 31 FCC Rcd at 5965-66, paras. 44-46.

⁹⁶ *CAF Phase II Auction Order*, 31 FCC Rcd at 5965, para. 44.

⁹⁷ *2014 Connect America Order*, 29 FCC Rcd at 15659, para. 38.

⁹⁸ *Id.* at 15660-61, paras. 42-43; *CAF Phase II Auction Order*, 31 FCC Rcd at 5966, para. 45.

Commission intended to apply to all CAF Phase II auction carriers regardless of their reason for not serving the required number of locations and subject Tri-Co to the same 95% support recovery. Accordingly, if the June 2026 Fabric shows that there are fewer actual locations than Tri-Co is required to serve, but the number of actual locations is at least 95% of the required number of locations, and Tri-Co has served all of the actual locations, pursuant to section 54.310(c)(2) of our rules we will reduce Tri-Co's support by 1.89 times the average support amount per location in the state for the number of locations within the discrepancy between Tri-Co's required location total and the number of locations as shown by the Fabric.⁹⁹ We will rely on the June 2026 Fabric because we find it is a good balance between providing time for Tri-Co to make any challenges to the Fabric prior to this version being released but also to make any adjustments to its plans prior to the end of the cure period, if necessary. We note that Tri-Co has had the opportunity to make challenges to the Fabric for several years.¹⁰⁰

36. We disagree that the Bureau's decision to find that it served the public interest to allow RBE carriers to seek an adjustment to their location totals is controlling here, or that it is inequitable to require Tri-Co to be subject to the 95% flexibility option when RDOF carriers or other funding recipients have the opportunity to adjust their location totals towards the end of their deployment term.¹⁰¹ The Bureau has consistently explained that decisions the Commission or Bureau makes regarding the terms and conditions of one funding program are not necessarily applicable to another program because "these programs were established under different circumstances, with different requirements, with different risks and consequences, and implemented at different times," and applicants of different support programs "did not compete for support to serve the same high cost areas and therefore, did not face competitors that had received competitive advantages arising out of the participation in another program."¹⁰²

37. For example, for the RBEs, some of the factors contributing to the Bureau's decision to allow carriers to seek a location adjustment are not applicable to the CAF Phase II auction, including the fact "RBE recipients received support pursuant to a nascent program designed to identify limitations of the CAM, did not receive specific notice of the CAM limitations at the time of bid placement, and in general, did not have the flexibility afforded other recipients of CAM-based support because their deployment obligations were not defined at the state level (as were the obligations of CAF Phase II support recipients and electing price cap carriers)."¹⁰³ RBE carriers were also at risk for having their letter of credit drawn if they missed serving even one of their required locations.¹⁰⁴ Similarly, for RDOF, the Bureau has declined requests "to selectively apply to [CAF] Phase II auction support recipients only those parts of [RDOF] that could potentially provide a financial benefit without imposing correlated parts of the program that may increase financial costs," including that RDOF bidders took on the risk that they may have to serve more than the required number of locations if there were more actual locations identified in their service areas near the end of the deployment term and the requirement that they serve certain

⁹⁹ 47 CFR § 54.310(c)(2).

¹⁰⁰ See, e.g., *Broadband Data Task Force Announces the Start of the Broadband Serviceable Location Fabric Bulk Challenge Process*, WC Docket Nos. 19-195, 11-10, Public Notice, 37 FCC Rcd 10140 (BDTF/WCB/OEA 2022).

¹⁰¹ Tri-Co Petition at 7-11.

¹⁰² 2025 *ELAP Order*, 40 FCC Rcd at 3271, para. 29.

¹⁰³ *Connect America Fund et al.*, WC Docket No. 10-90 et al., Order, 37 FCC Rcd 115, 120, para. 11 (WCB 2022) (*Skybeam and Midwest Waiver Order*). See also *Connect America Fund et al.*, WC Docket No. 10-90 et al., Order, 37 FCC Rcd 12328, 12331-32, para. 9 (WCB 2022) (*Douglas Services Waiver Order*).

¹⁰⁴ *Connect America Fund et al.*, WC Docket No. 10-90 et al., Report and Order and Further Notice of Proposed Rulemaking, 29 FCC Rcd 8769, 8799-8800, paras. 92-93 (2014). See also *Skybeam and Midwest Waiver Order*, 37 FCC Rcd at 120, para. 11; *Douglas Services Waiver Order*, 37 FCC Rcd at 12332, para. 9.

additional new locations upon reasonable request.¹⁰⁵

38. We are also not convinced by Tri-Co's claims that "the principle of equity supports" grant of its requested relief in light of the Bureau's decision to verify compliance with CAF Phase II auction obligations using the Fabric, or now that the Fabric is available, the Bureau "should accept the data from its own Fabric and acknowledge that the CAM data significantly overstates" the number of actual locations.¹⁰⁶ As we explained above, the Commission already acknowledged the potential for a discrepancy and prior to the auction laid out a path for how a CAF Phase II auction carrier could ensure that its required location total more accurately reflects the facts on the ground.¹⁰⁷ Tri-Co's decision to not take advantage of this path does not mean that Tri-Co is now entitled to different terms and conditions that are tailored to account for its own business decisions, nor does it preclude the Bureau from utilizing this new data source to inform its verifications without making adjustments to the required support recovery.

39. Similarly, the support recovery that Tri-Co claims it will pass on to its customers may have been avoided if Tri-Co had conducted the required due diligence, bid accordingly, and participated in ELAP.¹⁰⁸ Instead, Tri-Co took on the risk that there would be a location discrepancy, and we are not convinced that it would serve the public interest to now provide Tri-Co with relief as if it had participated in ELAP. We are also not persuaded by Tri-Co's unsupported claims that the support recovery will have a "crippling effect" on the company, and "halt" its broadband deployment plans and its "ability to continue serving customers,"¹⁰⁹ particularly when the .89 multiplier is limited to the support recovery associated with just 5% of locations that Tri-Co is required to serve.¹¹⁰ Finally, a claim that applying the 5% location flexibility option to Tri-Co would potentially jeopardize its ability to obtain future funding is speculative and unlikely in this context where the Commission has clearly explained that CAF Phase II auction carriers have this flexibility option.¹¹¹

40. However, we recognize that the public interest balance may shift if Tri-Co has served all of the actual locations within its service area but still cannot serve even 95% of the required number of locations because more than 5% of the required locations do not exist. In such a situation, the support recovery continues to increase in relation to the number of missing locations and Tri-Co must also return an additional 10% of support received during the deployment term.¹¹² We have to balance the importance of maintaining auction integrity and ensuring that carriers abide by the program's terms and conditions with one of the fundamental objectives of the program—ensuring that all relevant locations have been served and carriers are able to maintain service to these locations.¹¹³ Once Tri-Co has served all the locations in its funded footprint, no additional noncompliance measure can provide any incentive to serve additional locations in the footprint. At the same time, by electing to forgo ELAP, Tri-Co received significant benefits, including the ongoing interest free funding associated with those model locations, the

¹⁰⁵ *ELAP Reconsideration Order*, 36 FCC Rcd at 15436, para. 17.

¹⁰⁶ Tri-Co Petition at 10.

¹⁰⁷ *See supra* para. 29.

¹⁰⁸ Tri-Co Petition at 8.

¹⁰⁹ *Id.* at 6.

¹¹⁰ *See infra* paras. 40-41.

¹¹¹ Tri-Co July 10, 2025 *Ex Parte* Letter at 2; *CAF Phase II Auction Order*, 31 FCC Rcd at 5965-66, paras. 44-46.

¹¹² 47 CFR § 54.320(d)(2); *CAF Phase II Auction Order*, 31 FCC Rcd at 6017, para. 191.

¹¹³ *CAF Phase II Auction Order*, 31 FCC Rcd at 5968, para. 52 ("One of our objectives is to ensure that as many consumers as possible lacking 4/1 Mbps Internet access service become served through implementation of Phase II.").

option to receive funding for new locations, and avoiding the cost of participating in ELAP.

41. Accordingly, to the extent Tri-Co has served all actual locations within its service area and the June 2026 Fabric shows that more than 5% of the required number of locations do not exist, we find that there is good cause to waive section 54.320(d) of the Commission's rules, and, as a condition of this waiver, we will reduce Tri-Co's support on a pro rata basis for locations that do not exist beyond the 5% of required locations.¹¹⁴ Such an approach will require that Tri-Co be subjected to the 95% flexibility option consistent with the terms of the program, representing the minimum risk Tri-Co accepted by not conducting the required due diligence or participating in ELAP and the benefits Tri-Co received by not participating in ELAP.¹¹⁵

IV. ORDERING CLAUSES

42. Accordingly, IT IS ORDERED, pursuant to sections 1, 4(i), 5(c), 254, and 405(a) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 154(i), 155(c), 254, 405(a), and sections 0.91, 0.291, 1.3, 1.429 of the Commission's rules, 47 CFR §§ 0.91, 0.291, 1.3, 1.429, that this Order IS ADOPTED.

43. IT IS FURTHER ORDERED that the petition for reconsideration of South Central Connect, LLC and Union Telephone Company is DENIED.

44. IT IS FURTHER ORDERED that the petition for waiver of Tri-Co Connections, LLC is GRANTED IN PART and DENIED IN PART to the extent described herein.

45. IT IS FURTHER ORDERED that, pursuant to section 1.102(b)(1) of the Commission's rules, 47 CFR § 1.102(b)(1), this Order SHALL BE EFFECTIVE upon release.

FEDERAL COMMUNICATIONS COMMISSION

Joseph S. Calascione
Chief
Wireline Competition Bureau

¹¹⁴ To obtain relief we grant in this Order, Tri-Co will need to seek a verification from USAC that it has served 100% of the actual locations in its service area. Tri-Co will be responsible for aligning its HUBB deployment data based on geocoordinates to Fabric BSL IDs prior to seeking this verification and submitting the data necessary in a format and manner specified by USAC to perform a verification. To request a verification, a carrier should email HCVerifications@usac.org. See Universal Service Administrative Company, *Deployment Verification Reviews*, <https://www.usac.org/high-cost/annual-requirements/fund-verification-reviews/> (last visited Feb. 3, 2026).

¹¹⁵ 47 CFR § 54.310(c).